

**AGREEMENT BETWEEN  
THE ENGINEERS AND SURVEYORS INSTITUTE  
AND THE  
COUNTY OF FAUQUIER  
FOR PEER REVIEW/PLAN REVIEW PROCESS**

**THIS AGREEMENT** entered into this 15<sup>th</sup> day of October, 2003, by and between the County of Fauquier (hereinafter called "the County") and the Engineers and Surveyors Institute, 4460 Brookfield Corporate Drive, Suite A, Chantilly, Virginia, 20151 (hereinafter called "ESI").

In consideration of the mutual covenants set forth herein, the parties agree to the following:

1. **SERVICES PROVIDED:** ESI hereby agrees to provide one (1) staff engineer and an additional private sector engineer/planner to assist in the performance of plan review, plan process review and related services associated with designated land development plans for Fauquier County. The Director of Community Development (hereinafter called the "Director") and ESI shall assure that the engineers/planners provided for this agreement are qualified for the purposes of this agreement.

The purpose of this Contract is to achieve a quality improvement in the submitted plans and a subsequent reduction in the overall time required to review and approve land development plans in The County. ESI's duties shall include, but are not be limited to the following:

A. **Phase I:** This phase represents the "start-up" effort. During this phase ESI, in consultation with County staff, shall develop a set of site plan, construction plan and final plat checklists designed for the Peer Review Program to be implemented in Phase II. ESI shall also develop the review schedule to be used in Phase II and a public outreach effort to define the program, its expectations and the process to be followed. An ESI Technical Memorandum shall be developed defining the specifics under which the Phase II program shall operate. That ESI Technical Memorandum shall be made a part of this contract by reference and/or attachment. The total Phase I effort shall not exceed 50 hours or \$5,000 whichever is reached first, without the prior approval of Fauquier County.

B. **Phase II:** This phase represents the continuing program responsibilities of ESI.

1). Participate in the review of engineering and associated plans submitted as part of a land development application. Such review will be for minimum submission standards (as defined by approved checklists from Phase I) and an in-depth quantitative and qualitative review (the specific meaning of which will be determined during Phase I) of the technical aspects of the designed land development plans. The review will identify any issues that are not in accordance with the applicable County standards and/or good engineering practices. The peer review portion of this program will be restricted to Major Site Plan, Final Construction Plan and Final Plat submission categories.

2). Attend plan post review meetings when appropriate.

3). Perform other administrative, review and engineering tasks as deemed appropriate. The Director shall request these tasks which may include: carry out actual engineering plan review functions for the County during periods of staff absence and work overload, or providing staff support for a new program needing special technical expertise such as lot grading. Such additional services shall require prior approval and authorization by the Director and shall be with the concurrence of the Contractor.

4). ESI will conduct plan review sessions weekly on a designated day, unless in a given week there are no plans for review. On a quarterly basis, the Director will meet with ESI and the ESI Committee (County Engineer, Chief of Planning, Zoning Administrator and submitting firm representatives) to review work performed and to identify any process/procedure improvements needed for the Peer Review Program or within the Fauquier County Code, Zoning and Subdivision Ordinances to improve the clarity of process/plan requirements.

## 2. FAUQUIER COUNTY OBLIGATIONS:

- A. Provide staff members to assist in the peer review process.
- B. Provide office space, Internet computer access and furniture for the ESI staff engineer and consultant to conduct the peer review program.
- C. Maintain plan review data sufficient to allow evaluation of the program.

3. PERIOD OF AGREEMENT: The period of this agreement shall be from October 1, 2003 through June 30, 2004. The parties may by mutual consent expressed in writing extend the period of the agreement for additional one year periods. Said consent for extension shall be executed prior to the expiration of the then current agreement.

## 4. TERMINATION OF AGREEMENT:

### Termination for Convenience

Either party may terminate this agreement upon thirty (30) days advanced written notice to the other party. The County may terminate this agreement without advanced written notice provided that The County pays reasonable termination costs to ESI.

### Termination for Cause

Either party may terminate this agreement for caused default or negligence on the part of the other party without written notice and without the payment of any termination costs.

### Termination Due to Unavailability of Funds in Succeeding Fiscal Years

When funds are not appropriated or otherwise made available by the County to support continuation of performance in a subsequent fiscal year, the agreement shall be canceled and ESI shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the agreement.

5. TIME OF PERFORMANCE: ESI's services shall commence on October 1, 2003 and continue through June 30, 2004. The ESI shall provide services when land development applications are scheduled for Peer Review but no less than one day a week. The Peer Review schedule shall be posted in advance by The County and if no plans are scheduled or if other duties and functions as authorized by The County are not available, ESI will not report to the County to provide such services. Dependent upon the workload, ESI hours may be increased or decreased as deemed appropriate by the County.

6. COMPENSATION: ESI shall not be paid for services unless authorized by the Director or designee.

A. Phase I: The County shall pay ESI on an hourly basis at the rate of ninety-five (\$95.00) Dollars per hour per person assigned with a two hour minimum for days review services are used. A travel time allowance of one and one-half hours shall be granted for ESI or ESI member employees not residing in Fauquier County. This rate shall apply during Phase I of the program which shall not exceed three months. During Phase I, checklist development, program procedure development, technical plan review, and other tasks shall be performed as agreed to by the Director and ESI.

B. Phase II: The County shall pay ESI on an hourly basis at the rate of one hundred-ten (\$110.00) Dollars per hour per person assigned (or at the discretion of the Director of Community Development, at 2.97 times the unburdened hourly pay rate of the assigned individuals) with a two hour minimum for days review services are used. A travel time allowance of one and one-half hours shall be granted for ESI or ESI member employees not residing in Fauquier County. This rate shall apply during Phase II of the program. During Phase II, minimum submission review, peer review, technical plan review, and other tasks shall be performed as agreed to by the Director and ESI.

C. The total annual charges shall not exceed Sixty Five Thousand Dollars and Zero Cents (\$65,000). However, if services are required which will exceed this amount, the amount may be increased with the prior written authorization by the County. As ESI is not a bona fide County employee the parties agree that no deductions for withholding taxes, workman's compensation, insurance, or other fringe benefits will be made and will be the sole responsibility of ESI.

7. METHOD OF PAYMENT: The County shall pay ESI at the rate specified in Paragraph 6 of this Agreement. Such sum shall be paid within 45 days of receipt of a properly completed invoice from ESI specifying the actual number of hours of service provided during the invoicing period. Payment shall be made by check from the County directly to ESI.

8. PROHIBITION AGAINST CONTINGENT FEES: ESI warrants that it has not employed any company or person other than a bona fide employee working for ESI to solicit or secure this agreement and that it has not paid or agreed to pay any person, company or corporation, individual or firm, other than a bona fide employee working solely for ESI any favor, commission, percentage, gift or any other compensation contingent upon or resulting from the award or making of this or any other agreement. In the event of breach of this provision, the County shall have the right to terminate this agreement without liability, and at its discretion, to deduct from the agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

9. PROJECT AUDITS: ESI shall maintain adequate records in such a manner that they may be audited in progress and upon completion of the project. A simple ledger sheet showing disbursement by line-item is preferred. ESI shall provide access to the following documents during this audit:

A. All paid vouchers including those for out-of-pocket expenses, and other reimbursements supported by invoices, including ESI copies of Periodic Estimate for Partial Payment;

B. Ledgers

C. Canceled Checks;

D. Deposit Slips;

E. Bank Statements;

F. Journals, if any;

G. Copies of all agreements and copies of any agreement amendments;

H. Insurance documents;

I. Payrolls;

J. Time sheets.

10. INSURANCE: ESI shall obtain, prior to the start of work, and keep in force, General Liability and Automobile Liability policies as identified below:

A. Commercial General Liability

1) ESI's insurance shall cover the County for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form as filed for use in the Commonwealth of Virginia by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payments, and the elimination of coverage for Fire Damage Legal Liability.

2) The minimum limits to be maintained by ESI (inclusive of any amounts provided by an umbrella or excess policy) shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated

Project or Premises) endorsement to a Commercial General Liability Policy with the following amounts specified for this project:

General Aggregate Limit (other than Products/Completed Operations)	\$1,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$ 50,000
Medical Expense Limit	\$ 5,000

3) ESI shall continue to maintain Products/Completed Operations coverage during the time the agreement is in effect and will endeavor to maintain coverage for a period of three years after the agreement completion date provided the cost of such coverage is not deemed to be unreasonable by mutual consent of The County and ESI. The insurance shall cover those sources of liability which would be covered by the latest edition of Coverage A of the Commercial General Liability Form or Coverage A of the Products/Completed Operations Liability Coverage Form, as filed for use in the Commonwealth of Virginia by the Insurance Services Office, without restrictive endorsements. The minimum limits to be maintained by ESI (inclusive of any amounts provided by an umbrella or excess policy) shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement with the following amounts specified for this project.

Products-Completed Operations Aggregate Limits	\$1,000,000
Each Occurrence Limit	\$1,000,000

#### B. Business Auto Policy

1) ESI's insurance shall cover the offeror for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy as filed for use in the Commonwealth of Virginia by the Insurance Service Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

2) The minimum limits to be maintained by ESI (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per accident combined single limits for bodily injury liability and property damage liability.

#### C. Worker's Compensation and Employer's Liability

ESI's insurance shall cover the offeror and its sub-contractors of every tier of those sources of liability which would be covered by the latest edition of the standards Workers' Compensation Policy, as filed for use in the Commonwealth of Virginia by the National Council on Compensation Insurance, without restrictive Endorsement. In addition to coverage for the Virginia Worker's Compensation Act, where appropriate, coverage is to be included for the United States Longshore and Harbor Worker's Compensation Act, Maritime including Jones Act, Federal Employers Liability Act and any other applicable federal or state law.

1) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Virginia Worker's Compensation Act, the United States Longshore and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part one of the standard Workers' Compensation Policy. The minimum amount of coverage for those coverages customarily insured under Part Two of the standard Workers' Compensation (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 bodily injury by accident each accident, \$1,000,000 bodily injury



by disease each employee, and \$1,000,000 bodily injury by disease policy limit or aggregate where such aggregate is applicable under the terms of the standards Workers' Compensation Policy.

The insurance provided by ESI pursuant to the resulting agreement shall apply on a primary basis and any other insurance or self-insurance maintained by the County or the County's official, officer, agent or employee, shall be excess of and not contributing with the insurance provided by or on behalf of the offeror.

The coverage other than Workers' Compensation may be either on an occurrence or a claims-made basis. Provided, however, that claims made coverage for other than the Products/Completed Operations shall respond to claims arising out of accidents, occurrences, incidents and offenses happening after the commencement of the resulting agreement but before the end of the agreement completion date provided that the claim is made within five years after the agreement completion date. Provided further that claims made arising out of accidents, occurrences, incidents and offenses happening after the commencement of the resulting agreement but before the end of three years after the agreement completion date provided that the claim is made within eight years after the agreement completion date.

Prior to commencing work under the agreement, ESI shall furnish the County with a Certificate(s) of Insurance naming the County, its officers, employees and agents, as additional insured, giving a forty five (45) day notice of cancellation, non-renewal, or change in the insurance coverage, and/or restrictions.

**11. EMPLOYMENT DISCRIMINATION BY ESI PROHIBITED:** During the performance of this agreement, ESI shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the ESI; shall post in conspicuous places, available to employees, and applicants for employment, notices setting forth non-discrimination practices, and shall state, in all solicitations or advertisements for employees placed by or on behalf of the ESI, that he is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.

A. ESI shall include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions, will be binding upon each sub-contractor or vendor.

**12. ETHICS IN PUBLIC CONTRACTING:** The provisions contained in Sections 11-72 through 11-80 of the Virginia Public Procurement Act as set forth in the 1950 Code of Virginia, as amended, shall be applicable to this agreement.

**13. LICENSE REQUIREMENT:** ESI represents that it understands that all firms doing business in the County are required to be licensed in accordance with the County's "Business, Professional and Occupational Licensing (BPOL) Tax" Ordinance, and that wholesale and retail merchants without a business location in the County are exempt from this requirement. The BPOL license number, if applicable, shall be provided prior to the commencement of services.

**14. HOLD HARMLESS CLAUSE:** During the term of this agreement, ESI shall indemnify, defend and hold harmless the County, its officials, employees, agents and representatives thereof, from all suits, actions, or claims, including attorney's fees, brought on account of any personal injuries, damages or violation of rights, sustained by any person or property in consequence of any neglect in safeguarding contact work, or on account of any negligent act or omission by the ESI or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. This clause shall include claims involving infringement of patent or copyrights.

**15.** The agreement represents the entire agreement between the parties, and shall be interpreted in accordance with the laws of Virginia.

WITNESS THE FOLLOWING SIGNATURES:

THE COUNTY OF FAUQUIER

Signature: \_\_\_\_\_

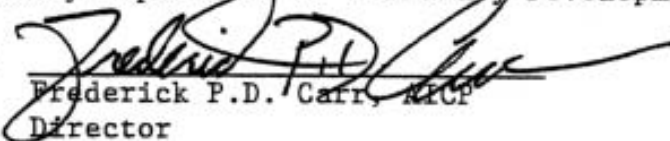
Date: \_\_\_\_\_

THE ENGINEERS AND SURVEYORS INSTITUTE

Signature: \_\_\_\_\_  
Terrance C. Ryan, PhD., P.E.  
Executive Director

Date: 10/1/03

Fauquier County Department of Community Development

Signature: \_\_\_\_\_  
Frederick P.D. Carr, RCP  
Director

Date: 10-1-03

## ACORD. CERTIFICATE OF LIABILITY INSURANCE

T-662 P.002/002 F-372

CSR GM  
ENGIN-2DATE (MM/DD/YY)  
09/16/03

## PRODUCER

Clarke & Sampson, Inc.  
228 S. Washington St., Ste 200  
Alexandria VA 22314-5404  
Phone: 703-683-6601 Fax: 703-739-8967

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION  
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE  
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR  
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

## INSURED

Engineers and Surveyors  
Cathy Kirby  
4460 Brookfield Corp. Dr Ste A  
Chantilly VA 20151

INSURER A: Twin City Fire Insurance Co  
INSURER B: Hartford Casualty Ins Co  
INSURER C:  
INSURER D:  
INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING  
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR  
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH  
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Business Owners GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> <del>PER</del> <input type="checkbox"/> LOC	42SBANE4073	02/20/03	02/20/04	EACH OCCURRENCE \$ 2000000 FIRE DAMAGE (Any one fire) \$ 300000 MED EXP (Any one person) \$ 10000 PERSONAL & ADV INJURY \$ 2000000 GENERAL AGGREGATE \$ 4000000 PRODUCTS - COMPROP AGG \$ 4000000
<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	42SBANE4073	02/20/03	02/20/04	COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	42WECGP4833	02/20/03	02/20/04	WC STAT- TORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> EL EACH ACCIDENT \$ 1000000 EL DISEASE - EA EMPLOYEE \$ 1000000 EL DISEASE - POLICY LIMIT \$ 1000000
OTHER				PROPERTY 28900

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENTS/SPECIAL PROVISIONS

## CERTIFICATE HOLDER

N

ADDITIONAL INSURED; INSURER LETTER:

## CANCELLATION

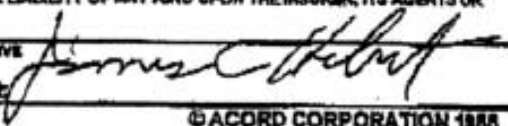
Fauquier County  
Dept of Comm. Development  
40 Culpeper St. 3rd Fl.  
Warrenton VA 20186

FAUQU-1

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION  
DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN  
NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL  
IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR  
REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

James L. Hebert



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